

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES - GENERAL

JS-6

Case No. CV CAS 10-3903 (SSx) Date July 11, 2011

Title ASCENDIANT CAPITAL GROUP, LLC; ET AL. v. INOVA
TECHNOLOGY, INC.; ET AL.

Present: The Honorable CHRISTINA A. SNYDER

CATHERINE JEANG

Not Present

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

**Proceedings: DEFENDANT RANDALL P. STERN'S MOTION TO
DISMISS FIRST AMENDED COMPLAINT (filed 5/16/11)**

I. INTRODUCTION

On May 24, 2010, plaintiffs Ascendant Capital Group, LLC and Ascendant Opportunity Fund-I LLC, (collectively "Ascendant") filed a complaint against defendants BOL Opportunity Fund I LLC, Boone Advisors, LLC, Boone Opportunity Lenders, LLC, Desert Communications, Inc. ("Desert"), Global Technology Finance, LLC ("GTF"), Andrea B. Goldman ("Goldman"), Inova Technology, Inc. ("Inova"), and Randall P. Stern ("Stern"). Plaintiffs filed a notice dismissing defendant GTF on September 11, 2010. The Court entered an order thereon on September 29, 2010. On October 4, 2010, the Court dismissed the complaint with leave to amend. On November 5, 2010, plaintiffs filed a first amended complaint ("FAC") against defendants Inova, Desert, Boone Opportunity Lenders, LLC, Boone Advisors, LLC, BOL Opportunity Fund I, LLC, Stern, Goldman, Todd Peterson, F.J. O'Leary, and Chuck Mosely, alleging claims for (1) breach of contract, (2) fraud, (3) negligent misrepresentation, (4) conspiracy, (5) conversion, (6) intentional interference with contractual relationships, (7) injunctive relief, and (8) declaratory relief. The claims arise from a dispute between plaintiffs and defendants with respect to Ascendant's rights under a number of debentures issued to it, and the priority of Ascendant's claim to Desert's assets.

On January 13, 2011, the Court granted a motion dismissing defendant Andrea Goldman for lack of personal jurisdiction. The Court also granted a motion dismissing defendants Boone Opportunity Lenders, LLC, Boone Advisors LLC, BOL Opportunity Fund I, LLC for improper venue, and stayed the case with respect to all other defendants to give plaintiffs an opportunity to file against the dismissed defendants in a New York

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court. On April 20, 2011, plaintiffs filed a status report indicating that they had chosen to forego such actions and wished to return the case to the Court's active caseload as against the remaining defendants.

On May 16, 2011, defendant Stern filed a renewed motion to dismiss the FAC. On May 23, 2011, plaintiffs filed an opposition to defendant's motion. On May 31, 2011, Stern filed a reply in support of his motion. On June 13, 2011, the Court granted defendant Stern's motion to dismiss the FAC without prejudice. In that order, the Court instructed plaintiffs to file an amended complaint within twenty (20) days, and admonished plaintiffs that in the event they did not file an amended complaint within that time, the action would be dismissed with prejudice. Plaintiffs have not filed an amended complaint. Therefore, the Court GRANTS defendant Stern's motion to dismiss with prejudice.

IT IS SO ORDERED.

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Initials of Preparer	CMJ		